

## § 401.425

ordered, whichever is later, a charge calculated on a basic rate of \$53 for each hour or part of an hour including the first hour, with a maximum basic rate of \$831 for each 24-hour period.

[62 FR 5923, Feb. 10, 1997. Redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998; USCG 1999-6098, 66 FR 36490, July 12, 2001]

### § 401.425 Provision for additional pilot.

The Director, Great Lakes Pilotage Staff, U.S. Coast Guard, or the General Manager, Great Lakes Pilotage Authority, Ltd., Canada, may require the assignment of two pilots to a ship upon request of the ship or when in his judgment, because of anticipated long transit, uncommon ship size, adverse weather or sea conditions or other abnormal circumstances, the assignment of two pilots is considered necessary for the safe navigation of the ship. The Director or General Manager shall direct which of the pilots is to be in charge, as circumstances require. The charge to the ship shall be twice the appropriate charge provided for in §§ 401.405, 401.407, 401.410, and 401.420. This section does not apply to a ship in a direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne unless the ship is required by law to have a registered pilot on board in these waters.

[CGD 80-148, 46 FR 18717, Mar. 26, 1981, as amended at 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996; 62 FR 5923, Feb. 10, 1997, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998]

### § 401.427 Charge on past due accounts.

A charge of two percent (2%) per month shall be paid on the opening monthly balance on accounts remaining unpaid over thirty (30) days after the billing date.

[CGD 79-138, 45 FR 13078, Feb. 28, 1980. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

## 46 CFR Ch. III (10-1-01 Edition)

### § 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point, the ship shall pay at the rate of \$321 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for these services. The change points to which this section applies are designated in § 401.450.

[62 FR 5923, Feb. 10, 1997. Redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998; USCG 1999-6098, 66 FR 36490, July 12, 2001]

### § 401.430 Prohibited charges.

No rate or charge shall be applied against any vessel, owner or master thereof, by a registered pilot which differs from the rates and charges set forth in this part, nor shall any rates or charges be made for services performed by a registered pilot, or for support services directly related to the provision of pilotage that a registered pilot requires a vessel to utilize, other than those for which a rate is prescribed in this part, without the approval of the Director.

[CGD 88-111, 55 FR 17581, Apr. 25, 1990. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

### § 401.431 Disputed charges.

(a) Any rate or charge applied against any vessel, owner, or master thereof by a registered pilot which the owner or master disputes as a charge prohibited by § 401.430, may be appealed to the Director for an advisory opinion as to whether such rate or charge is a prohibited charge.

(b) The appeal shall be in writing and set forth the amounts and description of the rates and charges disputed. The appeal must be supported by evidence that a reasonable attempt has been

made to resolve the matter between the parties and that a bona fide controversy exists.

(c) The respondent shall be furnished a copy of the appeal and be notified by the appellant that the matter has been appealed for an advisory opinion.

(d) The respondent shall be allowed a reasonable time, not less than twenty (20) days, in which to file with the Director and the appellant any data or arguments desired to be submitted in further defense of the disputed rates and charges.

(e) The Administration shall consider all relevant matter presented and issue an advisory opinion which shall be accompanied by an express recital that all relevant material received has been considered. The advisory opinion shall set forth the rates and charges in dispute, a discussion of the facts and relevant material considered, and a statement of opinion.

(f) When it is found that the disputed rates and charges, in the opinion of the Director, are charges prohibited by § 401.430, the respondent shall have a reasonable time, but not more than thirty (30) days in which to refund moneys, adjust invoices, and otherwise conform to the advisory opinion.

(g) Failure or refusal to comply with the advisory opinion within the time allowed may form a basis for a determination that there is a violation of the Great Lakes Pilotage Regulations subject to the provisions of § 401.500.

[29 FR 10467, July 28, 1964, as amended at 32 FR 14221, Oct. 13, 1967; 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998]

#### § 401.432 Certification of support services.

Each association holding a Certificate of Authorization shall certify each year whether any support service entity is directly or indirectly related by beneficial ownership to that association or to a United States registered pilot who is also a member of that association.

[CGD 88-111, 55 FR 17581, Apr. 25, 1990. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

#### § 401.440 Advance payment of charges.

Subject to the approval of the Director, a United States or Canadian Registered Pilot performing pilotage services in accordance with the rates and charges set forth in this subpart may require advance payment of such rates or charges or a suitable bond securing payment.

[29 FR 10467, July 28, 1964, as amended at 32 FR 14221, Oct. 13, 1967. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

#### § 401.450 Pilot change points.

A Registered Pilot's assignment is completed when the vessel to which he is assigned completes its arrival at or, in the case of a through trip, passes any of the following places:

- (a) Snell Lock;
- (b) Cape Vincent;
- (c) Port Weller;
- (d) Lock No. 7, Welland Canal;
- (e) Detroit/Windsor, other than assignments originating or terminating at a point on the Detroit River;
- (f) Port Huron/Sarnia;
- (g) Detour;
- (h) Gros Cap;
- (i) Chicago with respect to assignments originating at Detour or Port Huron/Sarnia; and
- (j) Duluth/Superior and Fort William/Port Arthur with respect to assignments originating at Gros Cap.

[CGFR 68-57, 33 FR 6479, Apr. 27, 1968. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

#### § 401.451 Pilot rest periods.

(a) Except as provided in paragraph (b) of this section:

(1) Each Registered Pilot upon completing an assignment at a change point designated in § 401.450, and

(2) Each Registered Pilot upon completing a series of assignments totaling more than 10 hours with no more than 2 hours rest between assignments, shall not perform pilotage services for at least 10 hours.

(b) In the event of an emergency or other compelling circumstances a pilotage pool may assign a Registered Pilot for service before his 10-hour rest period required under paragraph (a) of